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THE ANDHRA PRADESH GAZETTE

PART IV-B EXTRAORDINARY

PUBLISHED BY AUTHORITY

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ANDHRA PRADESH ACTS, ORDINANCES AND REGULATIONS ETC.

The following is the authoritative text in English Language of the Ordinance promulgated by the Governor on the 14th September, 2011 being published under article 348 (3) of the Constitution of India for general information:-

ANDHRA PRADESH ORDINANCE No. 7 OF 2011.

Promulgated by the Governor in the Sixty-second Year of the Republic of India.

AN ORDINANCE FURTHER TO AMEND THE ANDHRA PRADESH VALUE ADDED TAX ACT, 2005.

Whereas a Bill namely, the Andhra Pradesh Value Added Tax (Amendment) Bill, 2011 (L.A. Bill No. 6 of 2011) has been introduced in the Legislative Assembly of the State, but has not yet been passed;

And whereas, the Legislature of the State is not now in session and the Governor of Andhra Pradesh is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor hereby promulgates the following Ordinance:–

Short title and commence-ment.

1. (1) This Ordinance may be called the Andhra Pradesh Value Added Tax (Amendment) Ordinance, 2011.

(2) (i) sub-section (2) of section 2, sub-section (2) of section 3 and clause (b) of sub-section (1) of section 4 shall be deemed to have come into force with effect from 1-4-2005;

(ii) sub-section (3) of section 3 shall be deemed to have come into force on 24-9-2008;

(iii) sub-section (4) of section 3 shall be deemed to have come into force on 1-4-2009;

(iv) section 5 shall be deemed to have come into force on 24-9-2008;

(v) sub-section (2) of section 11 shall be deemed to have come into force on 19-5-2010;

(vi) sub-section (3) of section 11 shall be deemed to have come into force on 1-4-2005;

(vii) sub-section (4) of section 11 shall be deemed to have come into force on 1-9-2005;

(viii) sub-section (5) of section 11 shall be deemed to have come into force on 2-8-2010;

and the remaining provisions shall come into force atonce.

Amendment of section 2. (Act 5 of 2005).

2. In the Andhra Pradesh Value Added Tax Act, 2005, (herein after referred to as the principal Act), in section 2,–

(1) for clause (4), the following shall be substituted, namely:–

"(4) "Assessing Authority" means any officer of the Commercial Taxes Department, authorised by the Commissioner or as may be prescribed, to make any assessment in such area or areas or the whole of the State of Andhra Pradesh.";

(2) in clause (38), after Explanation II, the following shall be added, namely,–

"Explanation-III: The sale price, relating to loose liquor, served to customer in a bar/restaurant which was derived from the goods enumerated in item 1 of the Schedule-VI, on which tax at special rates has been levied and paid in the State, shall not form part of the taxable turnover."

Amendment of section 4.

3. In the principal Act, in section 4,–

(1) in sub-section (7),–

(a) for clause (b) the following shall be substituted, namely,–

"(b) Every dealer executing works contract may in *lieu of* the amount of tax payable by him under clause (a) opt to pay by way of composition at the rate of 4% of the total amount received or receivable by himself towards execution of the works contract either by himself or through sub-contractor subject to such conditions as may be prescribed:

Provided that the sub-contractor, executing works contract on behalf of the contractor, who opts to pay tax under this clause, shall be exempted from levy of tax.";

(b) clause (c) shall be omitted;

(c) for clause (d), the following shall be substituted, namely,–

"(d) every dealer engaged in construction and selling of residential apartments, houses, buildings or commercial complexes may, *in lieu* of the amount of tax payable by him under clause (a) opt to pay tax by way of composition at the rate of 4% on twenty five percent (25%) of the amount, received or receivable towards the composite value of both the land and building or the market value fixed therefor for the purpose of stamp duty, whichever is higher, subject to such conditions as may be prescribed:

Provided that no tax shall be payable by the sub-contractor of a works contractor, who opts to pay and paid tax under this clause on the turnover relating to the amount received as a sub-contractor from such main contractor towards the execution of works contract, whether wholly or partly, subject to the production of evidence to prove that such main contractor has exercised such option in respect of the specific work and subject to such other conditions as may be prescribed.".

(d) clause (e) shall be omitted;

(e) in clause (f), for the words "any dealer who is liable to be registered", the words "any dealer registered or is liable to be registered" shall be substituted.;

(f) in clause (h), for the expression "clauses (a) or (b) or (c)", the expression "clause (a)" shall be substituted.;

(g) clause (i) shall be omitted.

(2) after sub-section (8A), the following shall be added, namely,–

"(8B) Any dealer other than the producer of a feature film may, *in lieu of* the tax payable by him under sub-section (8), opt to pay by way of composition an amount of tax at the rate of 4% of the total amount, received or receivable by him towards transfer of right to use any goods subject to the conditions, as may be prescribed:

Provided that, wherever the tax is paid under this sub-section, the subsequent transfer of right to use such goods shall not be liable to tax under sub-section (8)".

(3) in sub-section (10), to clause (a), the following proviso shall be added, namely,–

"Provided that the agent selling agricultural produce on behalf of the agriculturist principal, shall be exempted from payment of tax subject to such conditions as may be prescribed.".

(4) after sub-section (10) so amended the following new sub-section shall be added, namely,–

"(11) Every dealer, who is engaged in the integrated activity of printing and supplying the printed materials may, *in lieu* of the amount of tax payable under the Act, opt to pay by way of composition an amount of tax at the rate of 4% on sixty percent (60%) of the total value of such supplies received or receivable,irrespective of the fact whether such supplies involve sale or works contract or job work subject to such conditions as may be prescribed.".

4. In the principal Act, in section 13,– **Amendment of section 13.**

(1) in sub-section (5),–

(a) in clause (a), the expression, "(c)" shall be omitted;

(b) in clause (g), after the words, "sub-section (8A)", the words "or sub-section (8B)" shall be inserted;

(c) after clause (h), the following new clause shall be added, namely,–

"(i) transactions on which tax is paid or payable under sub-section (11) of section 4.".

(2) in sub-section (7), for the expression "90%", the expression, "75%" shall be substituted.

Amendment of section 17.

5. In the principal Act, in section 17, in sub-section (5), in clause (e), the following words shall be added at the end,–

"except the agent, selling agricultural produce on behalf of agriculturist principals.".

Amendment of section 21.

6. In section 21 of the principal Act,–

(1) for sub-section (7), the following sub-section shall be substituted, namely:–

"(7) where an assessment has been deferred by the Commissioner under sub-section (5) of section 32 or as the case may be, by the Appellate Tribunal under the proviso to sub-section (4) of section 33 on account of any stay granted by the Appellate Tribunal, or as the case may be the Andhra Pradesh High Court or Supreme Court respectively, or whereas appeal or other proceedings is pending before the Appellate Tribunal or the High Court or Supreme Court involving a question of law having a direct bearing on the assessment in question, the period during which the stay order was in force or such appeal or proceedings was pending shall be excluded in computing the period of four years or six years as the case may be for the purpose of making the assessment.

(2) in sub-section (8), for the words, “any Court”, the words “any Court or as the case may be the Appellate Tribunal” shall be substituted.

7. In the principal Act, in section 22,- **Amendment of section 22.**

(1) in sub-section (2), for the words “interest calculated at the rate of one percent per month” the expression “interest calculated at the rate of one and quarter (1.25%) percent per month” shall be substituted;

(2) in sub-section (6), in clause (b), for the words “interest at the rate of one percent per month” the expression “interest calculated at the rate of one and quarter (1.25%) percent per month” shall be substituted.

8. In the principal Act, in section 31,- **Amendment of section 31.**

(1) in sub-section (1), for the second proviso, the following shall be substituted, namely,-

“Provided further that an appeal so preferred shall not be admitted by the appellate authority concerned unless the dealer produces the proof of payment of tax, penalty, interest or any other amount admitted to be due, or of such instalments as have been granted, and the proof of payment of twelve and half percent of the difference of the tax, penalty, interest or any other amount, assessed by the authority prescribed and the tax, penalty, interest or any other amount admitted by the appellant, for the relevant tax period, in respect of which the appeal is preferred.”.

(2) after sub-section (4), the following new sub-section shall be inserted, namely,-

“(4A) Where any proceeding under this section has been deferred on account of any stay orders granted by the High Court or Supreme Court in any case or by reason of the fact that an appeal or other proceeding is pending before the High Court or the Supreme Court

involving a question of law having a direct bearing on the order or proceeding in question, the period during which the stay order is in force or the period during which such appeal or proceeding is pending shall be excluded, while computing the period of two years specified in sub-section (4) for the purpose of passing appeal orders under this section.".

Amendment of section 32.

9. In the principal Act, in section 32,-

(1) in sub-section (2), for the two proviso's, thereunder, the following proviso shall be substituted, namely:-

"Provided that the power under sub-section (1) or (2) shall not be exercised by the authority specified therein in respect of any issue or question which was decided on appeal by the Appellate Tribunal under section 33;

(2) in sub-section (5), for the words, "the High Court or Supreme Court", the words "the Appellate Tribunal or the High Court or the Supreme Court" shall be substituted.

(3) in sub-section (7), for the words, "the High Court or Supreme Court" wherever they occur, the words "the Appellate Tribunal or the High Court or the Supreme Court" shall be substituted.

Amendment of section 40.

10. In the principal Act, in section 40, in sub-section (3), for the words, "interest at the rate of one percent per month" the expression "interest at the rate of one and quarter (1.25%) percent per month" shall be substituted.

Amendment of schedule-IV.

11. In the principal Act, in Schedule-IV,-

(1) in Entry 19, for the words "and auxines", the words, "Plant Harmones, Gibberllines, Auxines and plant growth promoters or regulators" shall be substituted.

(2) in Entry 100, after item 233, the following new item shall be added, namely,-

"234. Winding wire made of copper or enameled copper".

(3) in entry No. 102, after serial Number 50, the following shall be added; namely:

Sl.No.	Heading	Sub-heading	Description of goods
51	8403	90 00	Parts of central heating boilers other than those of heading 8402
52	8404	90 00	Parts of auxiliary plant for use with boilers of heading 8402 or 8403 (for example, economizers, super heaters, soot removers, gas recoverers); condensers for steam or other vapour power units.
53	8405	90 00	Parts of producer gas or water gas generators, with or without their purifiers; acetylene gas generators and similar water process gas generators with or without their purifiers.
54	8406	90 00	Parts of steam turbines and other vapour turbines
55	8410	90 00	Parts including regulators of hydraulic turbines, water wheels, and regulators therefor.

56	8411	99 00	Parts of turbo-jets, turbo-propellers and other gas turbines.
57	8483	90 00	Toothed wheels, chain sprockets and other transmission elements presented separately;

(4) after Entry 124, the following entry shall be added, namely,-

"125. Lime, Burnt Lime, Lime Stone, Products of Lime, Dolomite and other White washing materials including Cem Powder other than White Cement.".

(5) after Entry 125, so added, the following entry shall be added, namely:

"126. Purified Packaged drinking water in bulk containers/Cans and sachets but excluding aerated, mineral, distilled, medicinal, ionic, battery and de-mineralized water.".

E.S.L. NARASIMHAN,
Governor of Andhra Pradesh.

A. SHANKAR NARAYANA,
Secretary to Government,
Legislative Affairs & Justice
Law Department.

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